

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
SPRINGFIELD TERMINAL RAILWAY	)	
COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 04-12705-RGS
	)	
UNITED STATES SURFACE	)	
TRANSPORTATION BOARD and THE	)	
UNITED STATES OF AMERICA	)	
	)	
Respondents.	)	
_____	)	

**REPORT OF PARTIES' PLANNING MEETING PURSUANT TO FED. R. CIV. P. 26(f)**  
**AND LOCAL RULE 16.1**

1. Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1, a meeting was held on February 8, 2006 by telephone and was attended by:

- a. Eric L. Hirschhorn, Esq. for the Petitioner;
- b. Jeffrey M. Cohen for the Respondents.

2. **BRIEF DESCRIPTION OF THE CASE:**

a. This case arises under 28 U.S.C. § 1336(b)-(c), which grants jurisdiction to this Court to enforce, set aside, annul or suspend, in whole or in part, any order of the Surface Transportation Board ("STB"). On May 22, 2002, this Court referred two questions to the STB in *Engelhard Corp. v. Springfield Terminal Railway Co., Inc.*, Civil Action No. 01-10829-RGS ("Engelhard"). On September 27, 2004, the STB issued its decision in response to this Court's referral order. Pursuant to 28 U.S.C. § 1336, Petitioner, Springfield Terminal Railway Company, filed this action to set aside and annul the STB decision.

b. Petitioner believes this action should be considered in tandem with the Engelhard action, though it sees no need to consolidate the two actions. Petitioner represents that the parties to the Engelhard action have had several discussions regarding the possible settlement of that action, an event that would render this action moot. Should the Court decide to proceed separately with this action, however, Petitioner agrees to the briefing schedule set out below.

3. PRE-DISCOVERY DISCLOSURES: The parties do not believe any discovery is necessary in this action because there are no issues of material fact in dispute.

4. DISCOVERY PLAN: The parties do not believe any discovery is necessary in this action because there are no issues of material fact in dispute.

5. OTHER ITEMS: Subject to Item 2.b. above, the parties request that the below briefing schedule be adopted by the Court:

a. Petitioner's brief will be submitted by March 31, 2006

b. Respondents' brief will be submitted by May 1, 2006

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6. CERTIFICATIONS

a. The parties will file the appropriate certifications pursuant to Local Rule 16.1(D)(3) separately.

Respectfully submitted,  
By Plaintiff's Attorneys,  
ERIC L. HIRSCHHORN

/s/ Eric L. Hirschhorn  
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Respectfully submitted,  
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/s/ Jeffrey M. Cohen  
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**Of counsel:**  
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Scott M. Zimmerman  
Trial Attorneys  
Surface Transportation Board

February 17, 2006